

Message Text

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ACTION ARA-20

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FOR KNEPPER ARA/ECP

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TAGS: OCON, GT

SUBJECT: CONSULTATION ON MULTILATERAL TRADE NEGOTIATIONS:
GUATEMALAN BILATERAL

1. DRAFT MEMCON BILATERAL CONVERSATION FOLLOWS:

2. DRAFT MEMORANDUM OF CONVERSATION

PARTICIPANTS: AMBASSADOR EBERLE AND TEAM
LIC. CARLOS MOLINA MENCOS, MINISTER OF ECONOMY, GUATEMALA, AND
ADVISORS

TIME AND PLACE: MAY 1, 1974 - MANAGUA, NICARAGUA
SUBJ: CONSULTATIONS ON MULTILATERAL TRADE NEGOTIATIONS;
BILATERAL USG/GOG CONVERSATIONS.

3. MINISTER MOLINA RAISED THREE ISSUES: THE POSSIBILITY
OF CONFLICT BETWEEN US LEGISLATION AND CENTRAL AMERICAN
FISCAL INCENTIVES; THE POSSIBILITY OF CONFLICT
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BETWEEN USG AND GOG LEGISLATION IN THE AREA OF EX-

PROPRIATION; AND GOG SUPPORT FOR BANANA PRODUCING COUNTRIES' EFFORTS TO ADOPT AN EXPORT TAX SCHEME. WITH REGARD TO FISCAL INCENTIVES, HE MINISTER EXPLAINED THE CENTRAL AMERICAN SCHEME (WHICH IN PRACTICE APPLIES TO THE BULK OF EXISTING INDUSTRY) AND INQUIRED WHETHER US COUNTERVAILING DUTY LEGISLATION WAS IN CONFLICT WITH SUCH LEGISLATION. IN RESPONSE, AMB. EBERLE EXPLAINED THAT, IN GENERAL TERMS, INCENTIVES DESIGNED TO ENCOURAGE INDUSTRY TO LOCATE IN YOUR TERRITORY ARE NOT CONSIDERED DISCRIMINATORY. SIMILARY, DRAWBACK SCHEMES WILL NOT TRIGGER COUNTERVAILING DUTY ACTION WHEN LIMITED TO COMPONENTS DIRECTLY USED IN THE FABRICATION OF THE FINAL ITEM. US LEGISLATION IS AIMED AT INCENTIVES DESIGNED SPECIFICALLY TO ENCOURAGE EXPORTS TO THE U.S.

4. TURNING TO THE ISSUE OF EXPROPRIATION, MINISTER MOLINA STATED THAT UNDER GUATEMALAN LAW ALL BUSINESSES ARE REQUIRED TO INCORPORATE AS LOCAL COMPANIES AND THAT, ACCORDINGLY AND STRICTLY SPEAKING THERE ARE NO PRIVATE DIRECT FOREIGN INVESTMENTS IN GUATEMALA. (HE ADDED AS AN ASIDE THAT THE GUATEMALAN CONSTITUTION REQUIRES PROMPT AND EFFECTIVE COMPENSATION IN ALL EXPROPRIATION ACTIONS). GIVEN THIS LEGAL BACKGROUND, THE MINISTER ASKED WHY THE USG FELT IT COULD BECOME INVOLVED IN AN EXPROPRIATION DISPUTE IN GUATEMALA. AMB. EBERLE REPLIED THAT THE OWNERS OF THE INVESTMENT IN QUESTION WOULD BE AMERICANS AND THAT THE USG HAS A RIGHT TO ASSIST ITS CITIZENS TO RECEIVE FAIR TREATMENT. AFTER DISCUSSING VARIOUS US LAWS THAT REQUIRE USG ACTION IN THE CASE OF AN UNCOMPENSATED EXPROPRIATION, THE AMBASSADOR DESCRIBED SECRETARY KISSENGER'S DESIRE TO ESTABLISH AN INTERNATIONALLY AGREED UPON PROCEDURE FOR SETTLING SUCH DISPUTES IN ORDER TO AVOID THE PROBLEM OF CONFLICTING NATIONAL LAW.

5. ON THE ISSUE OF A BANANA EXPORT TAX, MINISTER MOLINA EXPLAINED THAT WHILE GUATEMALA STANDS ON THE MARGIN OF THE ISSUE (BECAUSE BANANAS ARE RELATIVELY UNIMPORTANT IN ITS TOTAL EXPORT PICTURE) IT DOES UNDERSTAND THE LIMITED OFFICIAL USE

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VITAL NECESSITY OF ASSISTING HONDURAS AND COSTA RICA TO SURMOUNT THEIR FORTHCOMING, VERY SERIOUS BALANCE OF PAYMENTS PROBLEMS. FOR THIS REASON, THE GOG WILL SUPPORT THE TAX SCHEME. HE ADDED THAT INDIRECTLY THE GUATEMALAN ECONOMY WOULD SUFFER IF ITS TRADING PARTNERS ENTER INTO A BALANCE OF PAYMENTS CRISIS LED RECESSION. AMB. EBERLE EXPRESSED UNDERSTANDING FOR HONDURAS' AND COSTA RICA'S PROBLEMS BUT STRONGLY OBJECTED TO THE UNI-

LATERAL PROCEDURE THROUGH WHICH A SOLUTION IS BEING SOUGHT. HE OBSERVED THAT THE USG IS BEING ASKED TO OPEN UP ITS MARKETS ON A NON RECIPROCAL BASIS AND THAT IT IS EXPECTED TO COOPERATE IN SUCH PRICE MAINTENANCE SCHEMES AS THE INTERNATIONAL COFFEE AGREEMENT. AGAINST THIS BACKGROUND, UNILATERAL PRODUCER ACTION (SUCH AS IN THE BANANA CASE) IS NOT ONLY THEORETICALLY INCONSISTENT BUT UNFAIR. AMB. EBERLE DECLARED THAT THE CORRECT PROCEDURE TO FOLLOW WOULD BE ONE INVOLVING THE COOPERATION OF THE CONSUMING COUNTRIES, ONE IN WHICH CONSULTATION PRECEDES ACTION. HE NOTED THAT HE HAD PROMISED THE GOH DELEGATION THAT IF THEIR GOVERNMENT WOULD SEEK CONSULTATION, THE USG WOULD RESPOND WITHIN WEEKS. MINISTER MOLINA EXPRESSED UNDERSTANDING FOR THE NEED FOR MULTINATIONAL COOPERATION BUT STRESSED THE GREAT URGENCY OF THE PROBLEM. HE NOTED THAT RECENTLY IN A SIMILARLY URGENT SITUATION, THE CASE OF SOYBEANS, THE USG HAD ACTED UNILATERALLY. AMB. EBERLE ACKNOWLEDGED THAT ACTION BUT SAID IT HAD BEEN WRONG AND THAT THE USG HAD PUBLICALLY APOLOGIZED.

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